**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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FAO-5779-2025 (O&M)
Date of decision:29.10.2025

ICICI Lombard General Insurance Company Ltd.
...Appellant

versus

Priya PS and Others
...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Preet Harinder Singh Pannu, Advocate
For appellant.

Mr. Ram Kumar Saini, Advocate and
Mr. Ankit Saini, Advocate for respondent Nos.1 to 5.

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PARMOD GOYAL, J. (ORAL)

1. Appellant-Insurance Company has preferred present appeal being aggrieved by award dated 09.07.2025 passed by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as '**Tribunal**'), whereby compensation of Rs.77,24,440/- has been awarded in favour of respondents-claimants. Claimants-respondents i.e. wife, children and parents of deceased Satheesh Kumar had sought compensation on account of untimely demise of Satheesh Kumar (hereinafter referred to as '**deceased'**) in accident dated 02.10.2020 caused by offending vehicle bearing No.DL 1LAD 9772.

2. Following issues were framed:-

"1. Whether the accident in question resulting in death Satheesh Kumar M took place on 02.10.2020 at 02:30 a.m. in

the area of village Khanpur Kolian near Mahindra Agency on GT Road, Police Station Sadar Thanesar (Kurukshetra) due to rash and negligent driving of the offending Bolero bearing registration No.DL1L-AD-9772 by respondent No.1 & owned by respondent No.2 or due to rash and negligent driving of Mini Bus bearing registration No.PB-01A-8009 by the deceased Satheesh Kumar M himself & owned by respondent No.4 or due to their contributory negligence?OPP

2. If issue No.1 is proved to what amount of compensation the petitioners are entitle to and from whom?OPP

3. Whether respondents No.1 and the deceased were not having valid and effective driving licences at the time of accident and there was violation of the terms and conditions of the insurance policies by respondent No.1 and 2 as well as by the deceased and respondent No.5. Thus, respondents No.3 and 5 are not liable to pay any compensation to the petitioners? OPR-3 & 5

4. Relief."

3. Issues No.1 and 2 were decided in favour of claimants. Issue No.3 was decided against respondent No.3 and total compensation of Rs.77,24,440/- along with interest @ 7.5% per annum from the date of institution of suit till realization was granted vide impugned award.

4. Appellant is primarily aggrieved by quantum of compensation and has challenged the quantification of compensation as has been done by Tribunal. Learned counsel for appellant has challenged quantification on following grounds:-

i. That age of deceased has been taken wrongly to be 40 years whereas from the evidence led by claimants-respondents, it is clearly made out that deceased was aged

41 years 06 months at the time of his death and therefore, Tribunal has wrongly awarded multiplier of 15 instead of 14 and has also wrongly awarded future prospects @ 40% instead of 25 % as mandated by Hon'ble Supreme Court of India ***in Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.; 2009(3) RCR Civil (77)*** *and* ***National Insurance Co. Ltd. Vs. Pranay Sethi, 2017(4) RCR (Civil) 1009***.

ii. That Tribunal has erred in adding pension being received by deceased while determining his income for the purpose of quantification of loss of dependency on account of death in the accident.

Learned counsel for appellant has placed reliance upon order of the Hon'ble Supreme Court of India in ***Vishavjit Singh & Ors. Vs. Cholamandalam & Anr., Special Leave Petition (Civil) No.13442 of 2020*** *decided on 21.05.2025.*

5. On the other hand, learned counsel for claimants-respondents has vehemently argued that age has been rightly taken as 40 years and therefore the multiplier as well as future prospects have been rightly granted. He further argued that family pension has to be added in the income of deceased for calculating loss of dependency and has placed reliance upon judgments passed by this Court in ***Pramod Kumar Tiwari vs. Premlal Gautam and Others, 2025 (2) TAC 384*** and by Hon'ble Supreme Court of India in ***Sebastiani Lakra and Others vs. National Insurance Company ltd. and Another, 2019 (17) SCC 465.***

6. Admittedly, in present case age of deceased has been duly proved on record. The deceased was born on 30.03.1979. PW-2 was duly examined by claimants-respondents to prove that deceased was ex-army man and was receiving pension, after his retirement from army. His service record was duly placed on record by PW2, wherein date of birth of deceased is mentioned as 30.03.1979 (though the Tribunal has wrongly noted the same as 03.03.1979). Copy of Ex.P/10 proved by PW-2 i.e. last pay drawn certificate issued by Air Force Authorities has also been annexed in the present appeal and perusal of Ex.P/10 goes to show that deceased was born on 30.03.1979. Date of accident in present case is also not in dispute. Accident had taken place on intervening night of 02-03.10.2020. Nothing contrary was pointed out by learned counsel for claimants-respondents to show that date of birth so recorded is wrong.

7. From these facts which stand duly proved on record, it is clearly made out that deceased was aged about 41 years 06 months and 02 days on the day of his death. Therefore, in present case, there is no ambiguity about the age of deceased and Tribunal has erred in taking age of deceased to be 40 years instead of 41 years 06 months, as is clearly made out from date of birth relied upon claimants-respondents themselves. The deceased has to be treated in the age group of 41 to 45 and accordingly multiplier as well as future prospects in view of judgments referred above have to be awarded to the claimants in present case keeping deceased to be aged more than 41 years, therefore, claimants shall be entitled to multiplier of 14 and future prospects of 25% on his monthly income.

8. It is also not in dispute that deceased was army/airforce man who had retired on 30.09.2023 i.e. two days prior to the accident. Deceased was therefore entitled to receive pension from his employer which was Rs.38,544/-. It is also not in dispute that the claimants-respondents would be entitled to family pension after the death of the deceased from the employer of deceased. The question, therefore in present appeal, would be whether Tribunal had rightly added Rs.38,544/- towards the income being received by deceased as pension on the day of his death. There was no material on record that after his retirement on 30.09.2020, deceased was further employed. Accordingly, the Tribunal has rightly considered monthly income of deceased equivalent to a highly skilled worker.

9. I do not find any fault in the approach of Tribunal to this extent. Deceased who was an ex-airforce man, therefore, has to be treated as highly skilled person on account of his experience and exposure in army and therefore, his notional income as Rs.12,000/- per month as determined by Tribunal is upheld. However, the moot question in present case is whether pension amount to Rs.38,544/- per month being received as pension has to be added and considered as income of deceased for determining loss of dependency.

10. Learned counsel for respondents-claimants has defended addition of income of Rs.38,544/- on the ground that deduction of family pension cannot be made by placing reliance upon judgments of **Sebastiani Lakra and Others** (supra) and **Parmod Kumar Tiwari** (supra). However, none of the judgments relied upon by learned counsel

for claimants-respondents have got any applicability in the facts of present case. It is not the case of deduction rather it is the case of addition of family pension for determining loss of dependency. The principle stated in judgments cited by learned counsel for claimants-respondents is not in doubt. Pension/family pension being received by claimants-respondents cannot be deducted from the compensation amount, if any, determined by Tribunal in a motor accident case.

11. The family pension received by deceased has got no relation with the accident and resultant death on account of accident and therefore it was rightly held not liable to be deducted for the compensation awarded on account of loss of dependency. However, similarly the family pension cannot be treated as income of deceased for determining loss of dependency. The matter in this regard is not *res integra*. The Hon'ble Supreme Court of India in **Vishavjit Singh & Ors.** (supra) has held as under:-

> *"The issue with regard to the reduction of the deceased's income from Rs.22,712/- (Rupees Twenty Two Thousand Seven Hundred Twelve) per month to Rs.6,500/- (Rupees Six Thousand Five Hundred) per month, upon scrutiny, appears to be justified. Since, the deceased was a pensioner and there was no evidence of any independent source of income, the High Court has rightly held that the amount being received by the widow as family pension had to be deducted. Accordingly, we find no ground to interfere with the income of the deceased as assessed by the High Court at Rs.6,500/- (Rupees Six Thousand Five Hundred) per month."*

12. In a similar situation, where the family pension was added for determining loss of dependency, the Hon'ble Supreme Court of India had

found that family pension cannot be added to the income of deceased and had upheld the orders of High Court whereby family pensions was excluded for determining loss of dependency. In the present case also, family pension of Rs.38,540/- cannot be added for determining loss of dependency. Moreover, upto 60% of pension would be receivable by claimants as family pension, therefore, pension cannot be treated as income of deceased. The loss of dependency in present case has to be determined on the basis of notional income determined by Tribunal @ Rs.12,000/- taking deceased to be highly skilled worker. The minimum wages taken as income of deceased alone has to be taken for determining loss of dependency.

13. Accordingly, claimants-respondents shall be entitled to following compensation:-

Income of the deceased	Rs.12,000/- per month (as per minimum wages of highly skilled workers)	Rs.12,000/- (per month)
Future prospects	25% (Rs.12,000/-+Rs.3,000/-)	Rs.15,000/-
Deduction	$1/4^{th}$ (15,000-3750)	Rs.11,250/-
Multiplier	14	14
Loss of dependency	11,250 x 14 x 12	Rs.18,90,000/-
Spousal consortium to claimant No.1	Rs.44,000/- (as awarded by Tribunal)	Rs.44,000/-
Filial consortium to claimant Nos.2 and 3	Rs.44,000/- x 2 (as awarded by Tribunal)	Rs.88,000/-
Parental consortium to claimant Nos.4 and 5	Rs.44,000/- x 2 (as awarded by Tribunal)	Rs.88,000/-
Loss of estate	Rs.16,500/- (as awarded by Tribunal)	Rs.16,500/-
Funeral expenses	Rs.16,500/- (as awarded by Tribunal)	Rs.16,500/-
Compensation awarded in appeal		Rs.21,43,000/-
Compensation awarded by Tribunal		Rs.77,24,440/-
Difference in compensation		Rs.55,81,440/-

14. The amount, if any due would be paid to the claimants-respondents along with interest @ 7.5% p.a. from the date of filing of the claim petition till its realization as per apportionment given in award.

15. Appeal is accordingly allowed in above terms.

(PARMOD GOYAL)
JUDGE

29.10.2025
Sunil Chander